

APPENDIX A – 4

Project Selection Processes

**Guidance for TEA-21 Reauthorization First Cycle
Programming Surface Transportation
Program (STP) and Congestion Mitigation and Air Quality
Improvement Program (CMAQ) Funds
In FY 2003/04 – 2004/05
MTC Resolution No. 3536**



Date: March 26, 2003
W.I.: 1512
Referred by: PAC

ABSTRACT

Resolution No. 3536

This resolution adopts the policy and procedures for the First Cycle Program, in advance of the reauthorization of the Transportation Equity Act of the 21st Century (TEA 21). The policy and procedures contain the project categories that are to be funded with FY 2003-04 and FY 2004-05 Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ) Program Funds for inclusion in the 2003 Transportation Improvement Program (TIP).

The resolution includes the following attachments:

Attachment A – First Cycle Program: Policies and Procedures

Further discussion of the First Cycle Program and future STP, CMAQ, and Transportation Enhancement Activities (TEA) is contained in the MTC Executive Director's Memoranda to the Programming and Allocations Committee dated March 5, 2003.

Date: March 26, 2003
W.I.: 1512
Referred By: PAC

RE: FY 2003-04 and 2004-05 STP, CMAQ, and TEA First Cycle Program: Policies and Procedures

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 3536

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq.; and

WHEREAS, MTC is the designated Metropolitan Planning Organization for the nine-county San Francisco Bay Area region (the region) and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes a list of Surface Transportation Planning (STP), Congestion Mitigation and Air Quality Improvement Program (CMAQ), and Transportation Enhancement Activities (TEA) funded projects; and

WHEREAS, MTC has developed a policy and procedure to be used in the selection of projects to be funded with STP and CMAQ funds for Fiscal Year (FY) 2003-04 and 2004-05 (23 U.S.C. Section 133), as set forth in Amendment A of this Resolution, incorporated herein as though set forth at length; and

WHEREAS, using the procedures and criteria set forth in Attachment A of this Resolution, MTC, in cooperation with Caltrans, operators of publicly-owned mass transit services, county congestion management agencies, the Bay Area Air Quality Management District, the Association of Bay Area Governments, and other local government entities, will develop a two-year program of CMA planning, air quality management, and regional operating and procurement commitment projects to be funded with anticipated STP and CMAQ funds in FY 2003-04 through FY 2004-05 for inclusion in the 2003 Transportation Improvement Program (TIP); and

WHEREAS the 2003 TIP will be subject public review and comment; now therefore be it

RESOLVED that MTC approves the process and criteria to be used in the selection of STP and CMAQ funded candidate projects for inclusion in the 2003 TIP, as set forth in Attachment A of this Resolution; and be it further

RESOLVED that the Executive Director shall forward a copy of this resolution, and such other information as may be required, to the Governor, Caltrans, and to other such agencies as may be appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

Steve Kinsey, Chair

The above resolution was entered into
by the Metropolitan Transportation
Commission at the regular meeting
of the Commission held in Oakland,
California, on March 26, 2003

Date: March 26, 2003
W.I.: 1512
Referred by: PAC

Attachment A
Resolution No. 3526
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TEA 21 REAUTHORIZATION
First Cycle Program
STP, CMAQ, and TEA
FY 2003-04 and FY 2004-05

Policies and Procedures
March 26, 2003

Section I Background

The federal Transportation Equity Act for the 21st Century (TEA 21) is set to expire on September 30, 2003. Among several programming opportunities, TEA 21 authorized the San Francisco Bay Area Region to program approximately \$375 million in Surface Transportation Program (STP) funds, \$330 million in Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds, and \$50 million in Transportation Enhancement Activities Program (TEA) funds between 1997 and 2003. Approximately \$125 million was available each year over the six-year period of the act, for a total of \$755 million. All of these funds have been fully programmed.

The last time we approached the reauthorization of an expiring act, the region proceeded with the programming of funds prior to the adoption of the new Act to ensure a continuous and seamless programming process for federal transportation funding. This strategy of programming also allows the region to deliver projects in a timely fashion, ensuring that timely use of funds policies and requirements are met.

Once again the region is prepared to undertake a similar 'advanced' programming activity by programming future funds in advance of the actual reauthorization. Note that several unresolved issues complicate the programming of these funds, such as MTC's 2001 Regional Transportation Plan (RTP) commitment to local streets and roads and transit capital shortfalls, unknown revenues to be realized from TEA 21 reauthorization and a recently proposed TEA program shift within the State. In response to these unresolved matters affecting the funding as we approach Reauthorization, the advance programming activity will focus on programming only what is necessary to maintain a seamless transition.

Section II

Six-Year TEA 21 Reauthorization Legislation

STP, CMAQ, and TEA - 1 • 2 • 3 Programming Under TEA 21 Reauthorization

As presented at the October 2002 and February 2003 Bay Area Partnership Board meeting, the region will proceed with a 1 • 2 • 3 approach for programming STP, CMAQ, and TEA revenues under TEA 21 Reauthorization, assumed again to comprise a six-year period. The region will continue to program to the full apportionment level rather than OA, with obligations for projects programmed in the last year of reauthorization subject to the availability of OA. Projects funded under each cycle will be subject to the project delivery policies currently under revision by MTC and the Partnership Technical Advisory Committee and working group(s).

In order to incorporate any revised policies that may emerge regarding transit/local streets and roads shortfalls, Transportation for Livable Communities and Housing Improvement Program (TLC/HIP), and other issues that will be resolved in the update of the long range transportation plan, it is necessary to defer as much programming as possible until the 2005 Regional Transportation Plan (RTP) is completed. To accomplish this, minimal revenues will be programmed in the first two years of the reauthorized transportation program, with the bulk of new programming occurring in FY 2005-06 and beyond. While this sequencing may put pressure on meeting regional and state project delivery requirements, particularly TEA funds, it does allow investment decisions to be more closely aligned with policies in the upcoming RTP.

First Cycle

The First Cycle programming will cover the minimal amount necessary to ensure a seamless transition into TEA 21 reauthorization. Funding will be programmed to projects with continuous annual funding needs and air quality management strategies, with the remaining balance used to address outstanding programming commitments arising from the OA shortfall from ISTEA and TEA 21. Due to a combination of a) OA limitations in the region, and b) annualized programming requirements for programs with operating or contractual commitments, Cycle One commitments will result in the full FY 2003-04 STP, CMAQ, and TEA apportionments, and about 65% of FY 2004-05 STP, CMAQ, and TEA apportionments, to be programmed by September 30, 2003. This is described in more detail in Section V: First Cycle Programming Policies.

Second Cycle

Second Cycle will cover STP, CMAQ, and TEA apportionments for the remainder of FY 2004-05 and all of FY 2005-06 and will not be programmed until Summer 2005 (beginning FY 2005-06) to allowing for completion of the 2005 RTP. Access to the 35% balance of FY 2004-05 STP, CMAQ, and TEA apportionment would be delayed by about one year. The three-year window for obligating any single year of federal apportionment will allow the region to manage any project delivery deadlines on those funds.

This second cycle would include the “on-going commitment” category of projects, as well as new funding for the identified local streets and road shortfall, transit capital shortfall, regional and county TLC/HIP, County TEA, and discretionary funding all as confirmed through the 2005 RTP. Additional programming commitments could arise out of the 2005 RTP. It is expected Cycle Two will be programmed between June and September 2005.

Third Cycle

Third Cycle will cover three years of STP, CMAQ, and TEA apportionments (FY 2006-07, FY 2007-08, and FY 2008-09), and include the continued programming of the project categories outlined in the second cycle and resulting from the 2005 RTP. It is expected that Cycle Three will be fully programmed by September 30, 2006. Because the region is programming to full apportionment rather than to OA, there may be insufficient OA to obligate all of the projects in the final year of the reauthorization act. Programming to full apportionment benefits the region with accelerated project delivery, results in lower project costs, and delivery of projects to the public sooner, which outweigh the risks of programming to higher levels than can be obligated in a given year. We have consistently been the beneficiaries of advanced federal obligation authority. Note that obligations for projects programmed in the last year of Cycle Three could be subject to the availability of OA. It may therefore be necessary to carry the programming of these projects into the first year of the following transportation act.

Section III

Guiding Principles

- Investments made in the First Cycle Program must carry out the objectives of the Regional Transportation Plan (RTP) and be consistent with its improvements and programs [23 USC 134 (h)]. This First Cycle Program will be in accordance with the policies adopted as part of the 2001 RTP. The Second and Third Cycle Program will be in accordance with the 2005 RTP.

- MTC and the Bay Area Partnership developed a strategy for programming federal and state funds to ensure that a balanced, reasonable mix of high priority transportation projects is achieved at the regional level. Pursuant to that discussion, the following factors must be considered in the development of priorities and procedures for programming STP, CMAQ, and TEA funds:
 - The diverse nature of the Bay Area transportation system requires multi-modal investments.
 - A strategic mix of various fund sources will be required to meet the divergent needs of large versus small projects, and/or differences in the financial capabilities of Partnership sponsors.
 - Maintaining and sustaining the existing system through replacement and rehabilitation of its infrastructure, coupled with effective management of that system, are high regional priorities in the RTP and must be provided for.

While this policy document is subject to revision once TEA 21 reauthorization legislation is passed, future policies will likely retain these essential features.

- Assembly Bill 1012 (AB 1012) emphasizes the importance of readiness and adherence to planned delivery schedules. Project sponsors that are unable to meet these requirements are subject to significant financial penalties.
- The MTC region will continue to program to apportionment, which is officially distributed to the Regions by Caltrans. While MTC will program to apportionment, approximately the last ten percent of the total six-year TEA 21 reauthorization legislation apportionment amount will be contingent on the availability of OA. Most likely this ten percent will affect projects programmed in FY 2008-09.
- MTC will have final program approval.

Section IV

Fund Estimate

Baseline revenue assumptions for TEA 21 reauthorization legislation have not been set at the federal level as of yet. For the First Cycle Program, the revenue projections adopted with the 2001 RTP will be used as guidance for programming. When legislation is passed, the revenue projections will be updated to reflect the legislated funding levels.

In the 2001 RTP, STP, CMAQ, and TEA revenues are assumed to grow at 2% per year based on Caltrans' FY 2001-02 projections. This amounts to \$140.8 million in STP, \$124.4 million in CMAQ, and \$18.2 million in TEA funds for FY 2003-04 and FY 2004-05. Note that Caltrans' estimates and MTC's RTP estimates are proving conservative as compared to early TEA 21 Reauthorization discussions.

Table 1: FY 2003-04 Estimated STP, CMAQ, and TEA Revenues*

Program	Fiscal Year Revenue (in millions of dollars)		
	FY 2003-04	FY 2004-05	Total
Surface Transportation Program	69.7	71.1	140.8
Congestion Mitigation and Air Quality Improvement Program (CMAQ) ²	61.9	62.5	124.4
Transportation Enhancement Activities Program (TEA)	9.0	9.2	18.2

¹ Revenues based on 2001 RTP projections

² The Fund Estimate does not include Eastern Solano County CMAQ funds. The 2001 RTP estimates that approximately \$1.2 million per fiscal year in CMAQ funds is projected to be apportioned to Eastern Solano County.

Section V

First Cycle Programming Policies

A. Programming Assumptions

- First Cycle projects will be programmed based on TEA 21 legislative guidelines. Once Reauthorization Legislation has been passed, the projects adopted as part of First Cycle will be reviewed for consistency with the new legislative criteria.
- The STP, CMAQ, and TEA fund estimate for First Cycle is based on the 2001 RTP revenue projections. When reauthorizing legislation is passed on TEA 21, the fund estimate will be updated to reflect the authorized funding revenue for STP, CMAQ, and TEA. Any overprogramming will become a commitment in the Second Cycle and is likely to be minor.
- Approximately \$140 million exists in carryover programming from ISTEAD and TEA 21 (\$48 from ISTEAD and \$92 from TEA 21) that are awaiting obligation.
- Most of the nine-county MTC region lies within the Bay Area Air Quality Management District's Air Basin. One exception is the Eastern portion of Solano County, which lies within the Yolo/Solano Air Quality Management District's (YSAQMD) air basin. The Sacramento Area Council of Governments (SACOG) is responsible for air quality conformity of the YSAQMD's air basin, while MTC has the planning and programming authority for Eastern Solano County. Per the existing Memorandum of Understanding between MTC and SACOG, Eastern Solano County CMAQ funding will be reserved for projects in the eastern portion of that county. The Eastern Solano County CMAQ funds will be available for programmed during Second Cycle or earlier, as necessary for air quality purposes.
- The Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds.

B. Programming Schedule

Development of the First Cycle Program under these procedures will be done in accordance with the schedule outlined in Appendix A of this policy and procedures document.

C. Adoption into the 2003 TIP

This First Cycle Program will be adopted as an amendment to the 2003 TIP. The projects proposed for adoption in the First Cycle Program are air quality exempt projects, and therefore, a new air quality conformity analysis and finding will not be required.

D. Funds Programmed

The First Cycle Program will program STP and CMAQ funds for FY 2003-04 and a portion of FY 2004-05. TEA funds will be programmed with Second Cycle. If AB 1012 delivery deadlines for TEA funds necessitate the programming of TEA funds prior to the adoption of a Second Cycle, TEA funds will be programmed before Second Cycle. Additionally, the programming of TEA funds is dependent on the California Transportation Commission's (CTC) determination of the TEA policy for TEA 21 Reauthorization. MTC will assign STP or CMAQ funding to the First Cycle Program projects as appropriate. CMAQ funding will be assigned to the First Cycle Program projects, where eligible.

Of the FY 2003-04 and FY 2004-05 estimated revenue, Cycle One will program approximately \$93 million in new projects and programs for air quality strategies, planning activities, and for projects requiring the continuation of funding to ensure existing annualized commitments and the needs of ongoing contracts are met.

Categories for this funding include the following:

- STP CMA Planning Activities (approximately \$8 million: \$4.5 million each for FY 2003-04 and FY 2004-05, of which \$1.35 million is dedicated each year to transportation land use coordination activities)
- Air Quality Management Strategies (approximately \$41 million for programs in FY 2003-04 and FY 2004-05)
- Regional operating and procurement commitments (approximately \$44 million: \$24 million in FY 2003-04 and \$20 million in FY 2004-05)

There is \$140 million in projects already programmed by MTC awaiting the obligation of federal funds. Most of these projects are on the shelf and ready to go to construction. Approximately \$140 million of programming capacity for First Cycle will be used to address the these carryover needs resulting from programming to full apportionment during ISTEA and TEA 21. Remaining revenues for FY 2004-05 will be reserved for programming under Cycle Two.

E. Project Categories

First Cycle programming will program the following project categories: Regional Coordination Projects with annual operating needs, Air Quality Management Strategies, CMA Planning Funds and Carryover projects due to OA limitations under ISTEA and TEA 21. Screening Criteria for the new projects are included in Appendix B.

Table 2: Programs to be funded in First Cycle

CMA Planning Activities	
CMA Planning Activities	Approximately 6% of the regional STP funds coming to the region will be reserved for overall CMA planning activities. For First Cycle Program, the planning funds will be based on the estimated STP revenue adopted in the 2001 RTP. Each county CMA is guaranteed a minimum of \$240,000, an increase from the minimum threshold of \$140,000 provided during TEA 21. The CMA's are provided either the county's population share of 3% of the STP funds or \$240,000, whichever figure is higher. In addition, \$1.35 million (\$150,000 for each of the county CMAs) will be targeted for transportation land use planning coordination with MTC.
Air Quality Management Strategies	
Spare the Air Program	Aims to reduce ozone on days when the Bay Area's air pollution is expected to exceed federal and state air quality standards by encouraging people to drive less on Spare the Air days.
Regional Rideshare Program	Aids in shifting individuals from single occupant vehicles (SOVs) to carpools, vanpools and other transportation alternatives and help individuals sustain this shift in order to mitigate the growth of traffic congestion and motor vehicle emissions in the Bay Area.
Air Quality Strategies	The air quality challenges we face will continue to place a demand on available funding in order to meet the Transportation Control Measures (TCMs) and Further Study Measures identified in the 2001 State Implementation Plan. Additionally, our SIP for attaining the one-hour, national ambient air quality standard for ozone will be revisited in 2003-2004.

Table 2 (Continued)

Regional (MTC) Operating and Procurement Commitments	
Freeway Operation Systems	Freeway operations refers to the activities that directly affect the safety, travel time, travel route selection, time of travel, or mode of travel, of travelers using or planning to use the freeway network. The goals of improving safety, efficiency, and reliability of the freeway system are dependent on several real-time freeway operation functions, including monitoring, surveillance, incident detection, providing information to motorists, incident clearance, and restoring network capacity. Caltrans, CHP and MTC work together, and with local agencies, to improve freeway operations.
Incident Management	Includes: Freeway Service Patrol, the Bay Area's freeway incident detection and removal program and the Call Box Program, installation and operations of the yellow call boxes on roadsides in the nine-county Bay Area.
Pavement Management Technical Assistance Program (P-TAP)	Assists Bay Area jurisdictions in implementing and maintaining pavement management systems (PMS) for their local roadway network.

Performance Monitoring	This program monitors changes in system performance over time with a focus on the customer's perspective.
Regional Transit Information System	Transit information services system designed to make it easier for transit users to plan trips throughout the Bay Area.
Regional Transportation Marketing	Generates market research data to inform product development, to develop and implement promotional campaigns for those projects, to develop project performance standards and to evaluate and report on project performance for MTC's customer service projects (includes TransLink®, TravInfo®, the TakeTransit Trip Planner, the regional rideshare program, Freeway Service Patrol and the Callbox Program).
Traffic Engineering Technical Assistance Program (TETAP)/ Arterial Signal Re-timing	Provides consultant assistance to local agencies to 1) retime traffic signal systems, and 2) analyze an existing problem, conceptualize solutions, and provide technical assistance with a grant application to implement the preferred solution.
TransLink®	The universal transit ticket program will establish a single regional system for collecting fares on all of the Bay Area's transit systems. The nine-county Bay Area will be first in the U.S. to have a single card that can be used on all forms of public transit in the region: buses, trains and ferries.
TravInfo®	The Bay Area's advanced traveler information system, also known as 511, which provides real-time information on traffic incidents, slowdowns, road construction activity, and major transit service interruptions as well as direct telephone connections to transit, paratransit, and rideshare agencies.

F. Local Match

Projects funded with STP, CMAQ, or TEA funding require a non-federal local match. Based on California's share of the nation's federal lands, the local match for STP, CMAQ, or TEA is 11.47% of the project cost. The Federal Highway Administration (FHWA) will reimburse up to 88.53% of the total project cost. Project sponsors are required to provide the non-federal match, which is subject to change.

G. Obligation Authority Prioritization

ISTEA and TEA 21 projects that were programmed, but not obligated due to TEA 21 obligation authority (OA) limitations, are one of the region's highest priorities to receive OA made available through the successor legislation of TEA 21.

H. Project Delivery

The regional STP, CMAQ, and TEA program is project specific. The STP, CMAQ, and TEA funds for projects in an existing program are for those projects alone.

The region will establish an obligation deadline for projects included in the First Cycle Program. It is expected that project funding will be obligated by September 30 of the year the project is programmed for in the TIP. Due to the region's uncertainty about future OA, funds programmed in the First Cycle will have the year programmed in the TIP plus one, to obligate the STP and CMAQ funding. For example, the obligation deadline for a project with CMAQ funding programmed for FY 2003-04 is September 30, 2005. MTC will actively monitor project status with relation to federal, state and regional delivery policies and funding deadlines. The Joint Finance Working Group will work to

ensure timely project delivery, identify problems, and recommend actions to the Partnership Technical Advisory Committee.

Obligation deadlines, project substitutions and redirection of project savings will continue to be governed by the MTC Regional Policy for Enforcing Fund Obligation Deadlines and Project Substitution for STP, CMAQ, and TEA funds (MTC Resolution No. 3239). Revisions to MTC Resolution No. 3239 are forthcoming.

I. Project Amendments

Any proposed changes will be carefully reviewed by MTC staff and subject to the approval of the Commission.

J. Project Application

Project sponsors must submit a completed project application for each project proposed for funding in First Cycle Program. The application consists of the following three parts and will be available on the internet (as applicable) accessible through mtc.ca.gov.

1. STP, CMAQ, and TEA Application
- 2a. Resolution of local support * (Appendix C)
- 2b. Opinion of legal counsel * (Appendix C)
3. CMAQ Emissions Benefit Analysis, available at:
<http://www.arb.ca.gov/planning/tsaq/eval/eval.htm>

* NOTE: Project sponsors have the option of consolidating the 'Opinion of Legal Counsel' within the Resolution of Local Support, by incorporating the statements into the Resolution of Local Support as documented in Appendix E.

- Appendix A -

<p align="center">- STP, CMAQ, and TEA - TEA 21 Reauthorization: First-Cycle Programming Recommended Schedule of Activities 2003</p>	
October 28, 2002	Presentation of First Cycle Programming Recommendations to Partnership Board
February 5, 2003	Joint Finance Working Group review of proposed STP, CMAQ, and TEA First Cycle Policy and Procedures
February 10	Presentation of Final First Cycle Programming Proposal to Partnership Board
February 18	Partnership Technical Advisory Committee (PTAC) review of proposed STP, CMAQ, and TEA First Cycle Policy and Procedures
March 5	Programming and Allocations Committee review of STP, CMAQ, and TEA First Cycle Policy and Procedures
March 26	Commission adoption of STP, CMAQ, and TEA First Cycle Policy and Procedures
March 26 – April 1	Sponsor submittals of project applications
April 2	Joint Finance Working Group review of proposed First Cycle Program
April 21	PTAC review of proposed First Cycle Program
May 14	PAC review – authorize Public Hearing and release of Draft First Cycle Program
June 11	Public Hearing on Draft First Cycle Program prior to PAC meeting
June 18	Close of Public Comment Period on Draft First Cycle Program
July 9	First Cycle Program and TIP Amendment to PAC
July 24	First Cycle Program and TIP Amendment to Commission for adoption
July 25 – September 30	Final TIP Amendment submitted to Caltrans, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA) for approval

- Appendix B -
First Cycle STP, CMAQ, and TEA Project Screening Criteria

Eligible Projects

A. Eligible Projects. STP has a wide range of projects that are eligible for consideration in the TIP. Eligible projects include, federal-aid highway and bridge improvements (construction, reconstruction, rehabilitation, resurfacing, restoration, and operational), mitigation related to an STP project, public transit capital improvements, pedestrian, and bicycle facilities, and transportation system management, transportation demand management, transportation control measures, surface transportation planning activities, and safety. More detailed eligibility requirements can be found in Section 133 of Title 23 of the United States Code.

CMAQ funding applies to new or expanded transportation projects, programs, and operations that help reduce emissions. Eligible project categories that meet this basic criteria include: Transportation activities in approved State Implementation Plan (SIP), Transportation Control Measures (TCMs), public-private partnerships, alternative fuels, traffic flow improvements, transit projects (facilities, vehicles, operating assistance up to three years, and fare subsidies), bicycle and pedestrian facilities and programs, travel demand management, outreach and rideshare activities, telecommuting programs, Fare subsidy programs, intermodal freight, planning and project development activities, Inspection and maintenance programs, magnetic levitation transportation technology deployment program, and experimental pilot projects. For more detailed guidance see the CMAQ Program Guidance (FHWA, April 1999).

Planning Prerequisites

B. RTP Consistency. Projects included in the STP, CMAQ, and TEA First Cycle Program must be consistent with the adopted Regional Transportation Plan (RTP), which federal law requires to be consistent with federal planning and programming requirements. Each project to be included in the First Cycle Program must identify its relationship with meeting the goals and objectives of the RTP, and where applicable, the RTP ID number and/or RTP travel corridor and whether the project is to be credited against the county's transit capital shortfall target.

C. CMP Consistency. Local projects must be consistent with the County Congestion Management Plan (CMP), or the adopted Capital Improvement Program (CIP) for counties that have opted out of the CMP requirement, prior to inclusion in the First Cycle Program.

D. Bicycle Consideration. Any local roadway or transit project must show reasonable consideration of bicycle facilities. Specifically, the following must be answered:

1. Have the needs of bicyclists been considered in the design of the project?
2. Is bicycle travel impeded by this project? If yes and a roadway projects, has a parallel bicycle facility been designed to accommodate bicyclists?

3. For transit vehicles and facilities: has bicycle access been facilitated by the project?
4. Have you reviewed local, county, and regional bike plans for roadway design consistency? Please attach an excerpt from the regional or local bike plan near the vicinity of your project.

Project Costs and Phases

E. Project Phases. Projects should be separated into the following project components:

1. Environmental Document and Preliminary Engineering (EDPE)
2. Final Design, Plans, Specifications, and Estimates (PS&E)
3. Acquisition of right-of-way (ROW), and right of way related activities
4. Construction, construction management and engineering, including surveys and inspections, equipment acquisition, and purchase of rolling stock. (CON)

The project sponsor/CMA must display the project in these four components in the final submittal. First Cycle Program funding amounts programmed for any component shall be rounded to the nearest \$1,000.

F. Fiscal Years of Programming. The First Cycle Program covers a two-year period, FY 2003-04 and FY 2004-05. It is expected that funds will be obligated in the year programmed in the TIP.

Readiness Standards

G. Project Phases Must Be Ready in the Year Proposed. Funds designated for each project component will only be available for obligation the fiscal year plus one in which the funds are programmed in the TIP. Once obligated, the sponsor will have three years, including the fiscal year in which the funds were obligated, to expend funds. For construction, the sponsor will have one year to award a contract and three years to expend funds. It is therefore very important that projects be ready to proceed in the year programmed.

H. The Project Must Be Fully Funded. Section 134 (h) of Title 23 of United States Code states that the regional program “shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project”. All local projects included in the final First Cycle Program must be accompanied by an authorizing resolution stating the sponsor’s commitment to complete the project as scoped with the funds requested. A model resolution including the information required is outlined in Sample Resolution - Appendix C of this guidance.

MTC will program a project component only if it finds that the component itself is fully funded, either from STP, CMAQ, or TEA funds or from other committed funds. MTC will regard funds other than STP, CMAQ, and TEA as committed when the agency with discretionary authority over the funds has made its commitment to the project

by ordinance or resolution. For federal discretionary funds, the commitment may be by federal approval of a full funding grant agreement or other federal approval.

- I. Field Review for Federally Funded Local Projects.** By requesting funding for a federally-funded project in the TIP, the project sponsor agrees to contact Caltrans and schedule and complete a project field review within 6-months of the project being included or amended into the TIP. For the First Cycle, Caltrans field reviews should be completed by March 1, 2004. This requirement only applies to projects receiving federal funds subject to FHWA local federal-aid field review requirements. Project funding transferred to FTA do not require a field review.
- J. Premature Commitment of Funds.** A project sponsor may not be reimbursed for expenditures made prior to the authorization to proceed. Therefore, the project sponsor must not incur costs prior to an authorization to proceed from FHWA (or authorization for Advance Construction (AC)), or a transfer of funds to FTA (or pre-award authority).

- Appendix C -
STP, CMAQ, and TEA First Cycle Project Application:
Part 2a - Sample Resolution of Local Support

Resolution No. _____

**AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE
TRANSPORTATION PROGRAM AND CONGESTION MITIGATION AND AIR
QUALITY IMPROVEMENT PROGRAM FUNDING FOR (project name) AND
COMMITTING THE NECESSARY LOCAL MATCH FOR THE PROJECT(S) AND
STATING THE ASSURANCE OF (name of jurisdiction) TO COMPLETE THE
PROJECT**

WHEREAS, the Transportation Equity Act for the 21st Century (TEA 21) (Public Law 105-178, June 9, 1998) and the TEA 21 Restoration Act (Public Law 105-206, July 22, 1998) continue the Surface Transportation Program (23 U.S.C. § 133 and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149); and

WHEREAS, pursuant to TEA 21, and the regulations promulgated thereunder, eligible project sponsors wishing to receive Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program grants for a project shall submit an application first with the appropriate metropolitan transportation planning organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission is the MPO for the San Francisco Bay region; and

WHEREAS, (applicant) is an eligible project sponsor for Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and

WHEREAS, (applicant) wishes to submit a grant application to MTC for funds from the Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program in fiscal year 2003-04 and 2004-05 for the following project:

(project description) .

WHEREAS, MTC requires, as part of the application, a resolution stating the following:

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to

be funded with Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and

- 3) the assurance of the sponsor to complete the project as described in the application, and if approved, as programmed in MTC's TIP; and
- 4) that the sponsor understands that funds must be obligated by September 30 of the year that the project is programmed for in the TIP, or the project may be removed from the program.

Resolved, that (agency name) is an eligible sponsor of projects in the STP, CMAQ, and TEA First Cycle Program; and be it further

Resolved, that (agency name) is authorized to submit an application for STP, CMAQ, and TEA First Cycle Program funds for (project name); and be it further

Resolved, that there is no legal impediment to (agency name) making applications for STP, CMAQ, and TEA First Cycle Program funds; and be it further

Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of (agency name) to deliver such project; and be it further

NOW, THEREFORE, BE IT RESOLVED by (governing board name) that (applicant) is authorized to execute and file an application for funding under the Surface Transportation Program or the Congestion Mitigation and Air Quality Improvement Program of TEA 21 in the amount of (\$ STP/CMAQ request) for (project description) ; and

BE IT FURTHER RESOLVED that (governing board) by adopting this resolution does hereby state that:

- 1) (applicant) will provide (\$ match amount) in local matching funds; and
- 2) (applicant) understands that the Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding for the project is fixed at (\$ STP/CMAQ amount), and that any cost increases must be funded by the (applicant) from local matching funds, and that (applicant) does not expect any cost increases to be funded with Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and
- 3) (project name) will be built as described in this resolution and, if approved, for the amount shown in the Metropolitan Transportation Commission (MTC) Transportation Improvement Program (TIP) with obligation occurring within the timeframe established below; and
- 4) The program funds are expected to be obligated by September 30 of the year the

project is programmed for in the TIP.

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the project described in the resolution and to program the project, if approved, in MTC's TIP.

- Appendix D -
STP, CMAQ, and TEA First Cycle Project Application:
Part 2b - Sample Opinion of Legal Counsel

Project sponsors have the option of including specified terms and conditions within the Resolution of Local Support as included in Part 2a (Appendix C). If a project sponsor elects not to include the specified language within the Resolution of Local Support, then the sponsor shall provide MTC with a current Opinion of Counsel stating that the agency is an eligible sponsor of projects for the STP, CMAQ, and TEA First Cycle Program; that the agency is authorized to perform the project for which funds are requested; that there is no legal impediment to the agency applying for the funds; and that there is no pending or anticipated litigation which might adversely affect the project or the ability of the agency to carry out the project. A sample format is provided below.

(Date)

To: Metropolitan Transportation Commission
Fr: (Applicant)
Re: Eligibility for STP, CMAQ, and TEA First Cycle Program funds

This communication will serve as the requisite opinion of counsel in connection with the application of (Applicant) _____ for funding from the STP, CMAQ, and TEA First Cycle Program made available pursuant to the Reauthorization of TEA 21 Legislation.

1. (Applicant) _____ is an eligible sponsor of projects for the STP, CMAQ, and TEA First Cycle Program.
2. (Applicant) _____ is authorized to submit an application for STP, CMAQ, and TEA First Cycle Program funding for (project) _____.
3. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to (Applicant) _____ making applications for STP, CMAQ, and TEA First Cycle Program funds. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of (Applicant) _____ to carry out such projects.

Sincerely,

Legal Counsel

Print name

- Appendix E -
Optional Language to add to the Resolution for Local Support

Project sponsors have the option of consolidating the 'Opinion of Legal Counsel' within the Resolution of Local Support, by incorporating the following statements into the Resolution of Local Support:

Resolved, that (agency name) is an eligible sponsor of projects in the STP, CMAQ, and TEA First Cycle Program; and be it further

Resolved, that (agency name) is authorized to submit an application for STP, CMAQ, and TEA First Cycle Program funds for (project name); and be it further

Resolved, that there is no legal impediment to (agency name) making applications for STP, CMAQ, and TEA First Cycle Program funds; and be it further

Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of (agency name) to deliver such project; and be it further

If the above language is not provided within the Resolution of Local Support, an Opinion of Legal Counsel is required as provided in Part 2b (Appendix D).